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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,967

06/21/2006

Michael Komowski

016906-0518

1506

23428

7590

07/09/2009

FOLEY AND LARDNER LLP

SUITE 500

3000 K STREET NW

WASHINGTON, DC 20007

EXAMINER

MILLER, SAMANTHA A

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

07/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/583,967

**Applicant(s)**

KOMOWSKI, MICHAEL

**Examiner**

SAMANTHA A. MILLER

**Art Unit**

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-10 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 21 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/IS/C)  
Paper No(s)/Mail Date 4/307.6/21/06  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*\*\*.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by DAUTRY (EP1469258).

1. The end regions (32, 42) of the two flap parts (3, 4) bear against one another in the closed state of the flap arrangement (Fig.4a), and roll and/or slide on one another during a movement (Fig.4b and Fig.4c).

2. The at least one of the two flap parts (3, 4) is formed, at least in the bearing region (31, 41), to be extremely elastic (formed of flexible material, col.1 l.57-col.2 l.1).

3. The closed state, the two flap parts (3, 4) are in planar contact (Fig.4a).

4. The two flap parts (3, 4) have a streamlined profile (Fig.4a).

5. A stop (curved section of 32, 42) is provided on the housing in the central region between the pivot axes on at least one side of the flap arrangement (Fig.4a).

6. A one side stop (21, 22) is provided on the housing (Fig.4c) on each side of the flap arrangement.

7. The central stop and the two side stops are arranged on mutually opposing sides of the flap parts (Fig.4a and Fig.4c).

8. The flap parts (3, 4) have a coating of PP rubber or a foam injection-molded encapsulation (flexible foam, col.1 l.57-col.2 l.1).

9. The air conditioning unit contains a device (para.0002).

10. The air conditioning unit comprises at least one of the following components: heat exchanger, radiator, evaporator, filter, temperature mixing flap, mixing chamber, one or more flow ducts and one or more control flaps for distributing the air to the outlet ducts (para.0002).

DAUTRY teaches the invention above, however DAUTRY does not teach at least one flap part from the closed state into a partially open state or vice versa.

The German Patent (DE 10151910) teaches:

1. At least one flap (9) part from the closed state into a partially open state or vice versa.(Fig.3)

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the flaps of DAUTRY with the flaps of the German Patent in order for the flaps to independently move from one another allowing more control of the air movement.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samantha A. Miller whose telephone number is 571-272 9967. The examiner can normally be reached on Monday - Thursday 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Samantha Miller  
Examiner  
Art Unit 3749  
7/6/2009

/Steven B. McAllister/

Supervisory Patent Examiner, Art Unit 3749